

16 SEP 1971

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Mr. Wilfred H. Rommel
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Rommel:

This is in response to your request of 25 August 1971 for the views of this Agency on Department of State's draft bill, "To amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended."

This Agency supports the amendment as proposed by the Department of State.

Sincerely,

SIGNED

John M. Maury
Legislative Counsel

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OLC/LLM:smg (15 Sept. '71)

15 September 1971

NOTE FOR: JMM

1. It is recommended that you sign the attached letter in response to OMB's request for Agency views on State's proposed legislation.

2. The legislation does two things: (a) increases from \$6,500 to \$10,000 the ceiling for settlement of claims for civilian employees' loss of personal property incident to service; and (b) makes the higher ceiling retroactive to 1964 when the ceiling for the same purpose for military personnel was increased from \$6,500 to \$10,000.

3. This is old legislation and was acted upon by the House in the 91st Congress but died in the Senate. At that time the House struck the retroactive features.

4. This position has been appropriately coordinated within the DDS (Headquarters Board of Survey and [REDACTED] and OGC.

STATINTL !


Lyle

August 25, 1971

LEGISLATIVE REFERRAL MEMORANDUM


To: Legislative Liaison Officer

- Department of Agriculture
- Atomic Energy Commission
- ✓ Central Intelligence Agency
- Department of Commerce
- Civil Service Commission
- Department of Defense
- General Accounting Office
- General Services Administration
- Department of Health, Education, and Welfare
- Department of Housing and Urban Development
- Department of the Interior
- Department of Justice
- Department of Labor
- National Aeronautics and Space Administration
- Postal Service
- Department of Transportation
- Veterans Administration
- Department of the Treasury

Subject: Department of State's draft bill "To amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by civilian officers and employees for damage to, or loss of, personal property incident to their service."

To permit expeditious handling, it is requested that your reply be made within 30 days.

Questions should be referred to Edward Monsma, code 103, extension 4656, or to Ralph Malvik, code 103, extension 4860, the legislative analyst in this office.


Assistant Director for
Legislative Reference

Enclosures

A B I L L

To amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by civilian officers and employees for damage to, or loss of, personal property incident to their service.

Be it enacted by the Senate and House of Representatives
of the United States of America in Congress assembled, That
Section 3(b)(1) of the Military Personnel and Civilian
Employees' Claims Act of 1964, as amended (78 Stat. 767
as amended by 79 Stat. 789), is amended by striking out
"\$6,500" and inserting in place thereof "\$10,000".

SEC. 2. Section 1 of this Act is effective August 31,
1964, for the purpose of reconsideration of settled claims as
provided in this section. Notwithstanding section 4 of the
Military Personnel and Civilian Employees' Claims Act of 1964,
or any other provision of law, a claim heretofore settled in
the amount of \$6,500 solely by reason of the maximum limitation
established by section 3(b) of the Military Personnel and
Civilian Employees' Claims Act of 1964, as amended, may, upon
written request of the claimant made within one year from the
date of enactment of this Act, be reconsidered and settled
under the amendment contained in section 1 of this Act.

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EXPLANATION

Purpose

The purpose of the proposed legislation is to amend the Military Personnel and Civilian Employees' Claims Act of 1964 as amended to (1) increase the present authority for the settlement of claims for personnel of agencies, other than the Department of Defense, the military departments and Coast Guard, for personal property losses incident to their service, from \$6,500 to \$10,000, and (2) permit reconsideration, retroactive to August 31, 1964, of any claim heretofore settled and paid in the amount of \$6,500 solely because that was the maximum amount authorized under existing law.

History

Although the legislative history of payment of employee claims dates back to April 9, 1816, with enactment of the Military Personnel Claims Act, the Department of Defense, the military departments and the Coast Guard were the only agencies with authority to pay personnel claims prior to 1964. The Military Personnel and Civilian Employees' Claims Act of 1964 extended the coverage of claims statutes to civilian officers and employees of all Government agencies, subject to the same \$6,500 limitation previously in existence for the military agencies.

The 1965 amendment to the Military Personnel and Civilian Employees' Claims Act of 1964 (79 Stat. 789) increased the claims settlement authority of the Department of Defense, the military departments and the Coast Guard to \$10,000 but retained the \$6,500 limitation for the civilian agencies. The increase in authority for the military departments and not the civilian agencies was due to the short history of the exercise of the claims authority by the civilian agencies and it was felt that any question of increase of existing authority should be deferred until the various agencies had developed procedures and had a longer period of experience in administration of this claims settling authority (H. Rept. 382, S. Rept. 655, 89th Congress, 1st Session).

In the 91st Congress, the House of Representatives passed H.R. 13696 which increased the limitation applicable to the civilian agencies to \$10,000 (without the retroactive section). This action was based on the fact that the civilian agencies had developed procedures and gained experience in administering the claims settlement authority. The Senate failed to act on the House passed bill prior to adjournment of the 91st Congress.

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Justification

The justification submitted in support of the 1965 amendment is equally applicable to Government agencies other than the military departments and the Coast Guard. The monetary limitation of \$6,500 is unrealistic and unduly restrictive in terms of the present cost of household goods and personal effects reasonably in an employee's possession. It imposes a great hardship on certain claimants who are victims of catastrophic losses, and leads to an increase of private relief legislation.

The civilian agencies have now had claims settlement authority for seven years. The Department of State administers the program jointly with the Agency for International Development (AID) and the United States Information Agency (USIA). The joint regulations promulgated by State, AID and USIA are in accordance with the statements made in House Report No. 460 of the 83rd Congress that the experience of the military departments would serve to establish guidelines and standards. The provisions of these regulations are similar to those of the military departments; the uniform depreciation allowance list developed by the military departments as a guide to adjudicating claims is used by the Department; and the policy set by the military departments as to maximum amounts allowable on categories of items such as photographic equipment, paintings, silverware and major appliances has also been adopted by the Department.

Although most claims are settled for less than \$1,000, often for only a few hundred dollars, a small percentage of claimants have not received full reimbursement for their losses since they exceeded the \$6,500 limitation. Thirty claims have been determined to be payable in excess of \$6,500 but for the statutory monetary limitation.

Personnel of civilian agencies with claims prior to 1964 could obtain recovery by requesting the Congress to enact private relief legislation. The same has been true for claims after 1964 for amounts in excess of \$6,500. The authority granted by Congress through enactment of the Military Personnel and Civilian Employees' Claims Act of 1964 relieved the Congress of much of the burden associated with processing private relief legislation. The proposed limitation of \$10,000 with the retroactive provision, would provide further relief from processing private relief bills. It would also permit more expeditious settlement in those cases where a total loss occurs and the employee is faced with circumstances of extreme hardship. The increase in the ceiling to \$10,000 was made retroactively effective to August 31, 1964 for the military agencies by the 1965 amendment. The proposed

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legislation would permit application of the \$10,000 ceiling retroactively to this same date for the civilian agencies. The retroactive feature of the predecessor bill, H.R. 13696, was struck out by the House because "it would relate to a relatively small number of cases" (H. Rept. 91-534). Additional cases have now arisen. The Department believes as a matter of equity to the individuals involved that they should be reimbursed for losses of personal property up to \$10,000 in the same manner as if they had been employed in a military department. Accordingly, the Department is again recommending that the Congress give favorable consideration to this retroactive provision.

Losses in excess of \$6,500 have resulted primarily from catastrophes involving total loss or damage to employees' personal effects. Most have resulted from hostile activities or abandonment resulting from emergency evacuations. A few of these total losses occurred as a result of vessel wreckage or other severe transportation hazard. Most claims stem from losses incurred in overseas areas or in conjunction with the movement or storage of personal effects authorized at Government expense for service-directed assignments to, from or between overseas posts of duty.

The purpose of the Military Personnel and Civilian Employees' Claims Act of 1964 was to extend to other agencies of the Government the authority possessed by the military departments to settle employee claims for loss or damage of personal property when the loss or damage is incident to their Government service. The need for such legislation was clearly justified and recognized. The proposed legislation seeks to restore uniformity of claims settlement authority among Government agencies.

Cost and Budget Data

Our experience has been similar to that of the military services in that only a small percentage of claims have exceeded the \$6,500 limitation. Of the thirty claims settled or pending since 1964 for the Department of State, Agency for International Development and United States Information Agency payable in excess of \$6,500 but for the existing limitation, the proposed legislation would involve a maximum expenditure of \$50,000 if enacted; a cost which the Government would also incur if Congress were to consider favorably a request to enact private relief legislation for these same claimants.

The additional cost to the Government for the next five years cannot be accurately determined because of the unpredictability of incidents that cause substantial losses. Based on past experience, the cost is estimated to be \$35,000.